

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 20-cr-53 (NEB/TNL)

Plaintiff,

v.

ORDER

Manuel Aguirre-Maldonado,

Defendant.

This matter comes before the Court on Defendant’s Motion for Continuance of Pretrial Deadlines, ECF No. 25. Defendant seeks a continuance of all pretrial deadlines, *see* ECF No. 15, as “counsel has been unable to meet, review and prepare with [him] due to the current coronavirus pandemic and impact on professional visits.” ECF No. 25 at 1. Further, “counsel has not been able to discuss potential resolution of this matter pursuant to preliminary discussions with the Government.” ECF No. 25 at 1. Defendant requests an indeterminate continuance “until he is able to sufficiently meet and discuss with . . . [counsel] on discovery, pretrial and all other matters in compliance with the general orders of this Court and related jail visitations.” ECF No. 25 at 1. The Government “takes no position” on Defendant’s motion. ECF No. 25 at 1.

Defendant was arraigned on March 12, 2020, and an Arraignment Order setting forth certain pretrial deadlines was issued shortly thereafter. ECF Nos. 13, 15. Beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued

a series of General Orders in connection with the COVID-19 pandemic, *available at* <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>. These General Orders acknowledge, among other things, that (1) a national emergency has been declared by the President of the United States of America in response to COVID-19; (2) a peacetime emergency has been declared by the Governor of the State of Minnesota in response to COVID-19; (3) a stay-at-home order has been implemented by the Governor of the State of Minnesota in response to COVID-19; and (4) “local detention facilities continue to implement several COVID-19 related restrictions that impact the ability of pretrial detainees to consult with legal counsel.” *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 9 (D. Minn. Apr. 15, 2020).

For the reasons addressed in these General Orders and the well-documented concerns regarding COVID-19, the Court finds that, pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his attorney reasonable time necessary for effective preparation and to make efficient use of the parties’ resources. The Court further finds that, pursuant to 18 U.S.C. § 3161(h)(7)(B)(i), a miscarriage of justice would result if time were not excluded under these unique circumstances.

The Court will not, however, grant an indefinite extension. Should Defendant need additional time, such additional time may be requested upon a proper motion providing the

specific factual basis for the extension along with recognition and acknowledgement by Defendant of his right to a speedy trial and any impact thereto.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Continuance of Pretrial Deadlines, ECF No. 25, is **GRANTED IN PART** and **DENIED IN PART**.

2. The period of time from **April 23 through June 11, 2020**, shall be excluded from Speedy Trial Act computations in this case.

3. The Government must make all disclosures required by Federal Rule of Criminal Procedure 16(a) by **May 6, 2020**. D. Minn. LR 12.1(a)(1). In order to avoid the need for a recess of the motions hearing, the Government is requested to make by **May 6, 2020**, all disclosures which will be required by Fed. R. Crim. P. 26.2 and 12(h).

4. Defendant must make all disclosures required by Federal Rule of Criminal Procedure 16(b) by **May 13, 2020**. D. Minn. LR 12.1(a)(2).

5. All motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **May 20, 2020**.¹ D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses must be delivered directly to the chambers of the undersigned.²

6. **Counsel shall electronically file a letter on or before May 20, 2020, if no motions will be filed and there is no need for hearing.**

¹ "Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute." D. Minn. LR 12.1(b).

² U.S. Mail or hand-deliver to 300 South Fourth Street, Suite 9W, Minneapolis, MN 55415.

7. All responses to motions shall be filed by **June 3, 2020**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **June 3, 2020**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **June 8, 2020**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The Government makes timely disclosures and a Defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. If required, the motions hearing must be heard before the undersigned on **June 11, 2020, at 1:30 p.m.**, in **Courtroom 9W**, Diana E. Murphy United States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota. D. Minn. LR 12.1(d).

[Continued on next page.]

12. **TRIAL:** The trial date and other related dates will be at a date and time to be determined. Counsel must contact the Courtroom Deputy for District Judge Nancy E. Brasel to confirm the new trial date.

Dated: April 27, 2020

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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